

CHAPTER 2
INITIAL BOARD PROCEEDINGS ON
PETITIONS FOR INVOLUNTARY BOUNDARY CHANGES

[Prior to 1/9/91, City Development Board[220] Ch 2]

263—2.1(368) Initiation of petition. A petition initiated for incorporation, discontinuance or boundary adjustment shall be initiated pursuant to Iowa Code sections 368.11 and 368.13. Where the petition is elector filed, the signatures of the qualified electors shall be attached to the petition. The petition shall show a sufficient number of qualified electors' signatures to commence proceedings for incorporation, discontinuance or boundary adjustment as the case may be, and the method of computing the number of signatures required. Where a petition is commenced by a regional planning authority, an authorizing resolution shall accompany the petition.

This rule is intended to implement Iowa Code section 368.11.

263—2.2(368) Filing of petition. A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board as provided for by Iowa Code section 368.11. Notice shall be given as provided for by section 368.11. The notice shall include a brief description of the proposal and the time and place that the request is to be acted upon by the board. Petitions for involuntary corporate boundary change filed pursuant to section 368.11 shall be assigned a permanent case number. Any inquiries, motions, briefs, petitions, or other correspondence concerning an involuntary corporate boundary change shall reference the case number.

This rule is intended to implement Iowa Code section 368.11.

263—2.3(368) Drafting of petition for involuntary boundary change. The body or bodies commencing a petition shall be known as the petitioner(s). The petition shall be in the following form: "We, the (City Council of _____), (County Board of Supervisors of _____), (Regional Planning Authority of _____), (Certain Electors of _____), do petition the City Development Board of the State of Iowa for an (incorporation), (discontinuance), (boundary change), more specifically described as (description of proposed action(s)), and involving land described as (legal description)." Where applicable the initial statement shall be followed by the information specified in Iowa Code chapter 368, including the following:

2.3(1) General statement of the proposal. The general statement of the proposal shall be a general overview of the proposal, briefly describing the characteristics of the city and territory and the reasons for the corporate boundary change. A legal description of the area proposed for change shall be included.

2.3(2) Map. The map shall show all features which are pertinent to the proposed action and shall show all city boundaries and their relationship to all boundaries of the territory. Where land use patterns are expected to be pertinent to the board's consideration, the petitioner may be requested to present sufficient graphic material.

2.3(3) Assessed valuations. The classification assigned for tax purposes (agricultural, residential, commercial, etc.) shall be included by parcel of all platted or unplatted land according to the most recent city or county assessor's records. The information is to be verified in writing by the city or county assessor.

2.3(4) Property owners. Names and addresses of property owners within the area delineated by the legal description in the petition.

2.3(5) Population density. Persons per acre for annexation, person per square mile for incorporation, discontinuance, or consolidation. Population density is an indicator of urban development. The population density of the city and territory shall be included as currently exists and the population density of the city if the proposal is approved shall also be included.

2.3(6) Potential growth in population. In annexation, consolidation and incorporation the city's and territories' projected population shall be included. Population projections shall be for a 10- to

20-year period and may be taken from an existing comprehensive plan or may be calculated based on relevant data if no comprehensive plan exists.

2.3(7) Residential, commercial and industrial development. Existing and projected residential, commercial, and industrial land use patterns shall be included. Projected growth shall be based on population projections for the city and territory. In the case of annexation, the amount of vacant developable land within the existing corporate limits and an estimate of the amount of developable land needed to accommodate future growth shall be included.

2.3(8) Description of topography. Topographic information shall be in map and narrative form. Maps shall include both the city and territory and shall consist of contour lines at ten-foot intervals as may be taken from contour maps of the U.S. Geological Survey or any other source acceptable to the board. A narrative description of the area's topography shall accompany the maps and identify flood plains, drainage areas, drainage ways, slopes and bluffs. In annexation or incorporation the narrative shall also address topography as it relates to the development of urban uses and the extension of municipal facilities.

2.3(9) Plans for disposal of assets and assumption of liabilities. Substance and format of such plans shall be subject to approval by the board.

The following shall be considered:

a. Annexation, consolidation and incorporation. A description of municipal services, including but not limited to water supply, sewage disposal and police and fire protection, and the costs of said services, that the city can extend to the territory, proposed new city, or consolidated city shall be included. The petition shall also include an analysis of the assets the city may receive that will offset the cost of providing municipal service including property tax, increase in municipal bonding capacity, state and federal shared revenues, special assessment policies, revenue bonds, user fees, and federal funds where applicable.

b. Severance and discontinuance. Shall include a statement of the capability and intent of the county in which the city or territory is located to assume responsibility for but not limited to police protection, street and road maintenance and repair; and an analysis of the capability of the township fire district to provide fire protection. In cases of discontinuance, the disposal of monetary and physical assets shall also be considered.

2.3(10) Description of existing municipal services. Including but not limited to water supply, sewage disposal, fire and police protection.

The following shall be considered:

a. Annexation and consolidation. The petition shall include a statement of the capability of existing city facilities to accommodate an increased load resulting from annexation or consolidation. The statement shall include sewage system capacity, water system capability, and the adequacy of and capacity of the present police, fire, and public works departments.

b. Incorporation. The same requirements of subrule 2.3(10) shall apply if sewage or water systems are provided on a greater than individual basis to the territory, or if police, fire, and public works services or any other municipal type services are being provided and will continue to be provided to the territory by the county or township.

c. Discontinuance and severance. Adequacy of sewer, water, police, fire and other municipal services being provided to the area shall be documented.

2.3(11) Effect of proposal and possible alternative proposals. At minimum the petition shall include a description of the effect the proposed change will have on the cost and adequacy of services and facilities if approved, and a description of the effect on the cost and adequacy of services and facilities if the proposal is disapproved.

2.3(12) Effect of proposal on adjacent areas. The petition shall include documentation of the amount of revenue lost or gained by any city, township, or county impacted by the proposal. Consideration shall be given to property tax, state shared revenues, federal revenue sharing, and any other major sources of income.

2.3(13) Plans for agreements. Plans for agreements with any existing special service districts shall include proposed or existing agreements with township fire districts, rural water and sanitary dis-

tracts, and agreements with any county or city for police protection, ambulance service, or any other service deemed by the board to be of importance to the proposed boundary change.

2.3(14) Shared roads. The petition shall include a proposed formal agreement between affected municipal corporations and counties for the maintenance and improvement and traffic control of any road that is divided as a result of an incorporation or boundary adjustment.

2.3(15) Territory not within a city. In cases of annexation or incorporation, the petitioner must state that none of the territory is within a city.

2.3(16) Name of proposed city. In a case of incorporation or consolidation, the petitioner must state the name of the proposed city.

This rule is intended to implement Iowa Code section 368.11.

263—2.4(368) Costs. Any costs which are incurred in drafting the petition, in preparation of supporting documentation or publishing public notices shall be borne by the petitioner.

This rule is intended to implement Iowa Code sections 368.11 and 368.15.

263—2.5(368) Proceedings on an original petition. An original plus 11 copies of a petition shall be filed with the board, together with all attachments. Prior to initiation of action where a petition has been filed, the board shall serve notice by certified mail of such filing, including a copy of the petition, to the chief elected official of each county and the regional planning authority containing the area involved. The date of receipt of a petition by the board shall be the date of the first board meeting following actual receipt, as indicated by the date stamped, of the petition by the department of economic development, staff of the city development board. The staff will notify the petitioning city by certified mail of the receipt of the petition.

This rule is intended to implement Iowa Code section 368.11.

263—2.6(368) Board review of petition. Upon receipt of a petition the board shall review the petition for compliance with rule 2.3(368). Any facts accompanying the petition shall be evidence of such facts except that the board may from appropriate public records determine whether or not such are the facts and may require the petitioners to prove such facts by competent evidence. Any facts accompanying the petition may be contradicted by opposing parties at public hearing.

This rule is intended to implement Iowa Code section 368.11.

263—2.7(368) Dismissal of a petition. No petition shall be dismissed because it is incorrectly titled, or parties or facts thereto incorrectly designated, but opportunity shall be given in such cases to correct the error by amendment. A petition may be dismissed only in accord with Iowa Code section 368.12.

This rule is intended to implement Iowa Code section 368.12.

263—2.8(368) Appointment of local representatives. If a petition is not dismissed, the board shall direct the appointment of local representatives to serve with the board as a city development committee, pursuant to Iowa Code section 368.14. Local representative committee appointments shall be made by resolution of the appropriate governing body. Such resolution shall state that the local representatives are qualified electors of the city or territory they represent, or that if none of the qualified electors of the territory accept the appointment, or if the territory contains no qualified electors, the representative shall be a qualified elector within the rural area who owns property within the territory. A copy of the resolution shall be submitted to the board.

This rule is intended to implement Iowa Code section 368.14.

263—2.9(368) Proceedings initiated by board. The board may initiate its own proceedings or its own plan. Such proceedings or plan shall conform to the requirements of a petition and shall be filed and notice served in accordance with the Code. The board shall direct the appointment of a committee consisting of the board members and local representatives as specified in Iowa Code section 368.14.

Local representative committee appointments shall be made by resolution of the appropriate governing body. Such resolution shall state that the local representatives are qualified electors of the city or territory they represent, or that if none of the qualified electors of the territory accept the appointment, or if the territory contains no qualified electors, the representative shall be a qualified elector within the rural county area who owns property within the territory. A copy of the resolution shall be submitted to the board.

This rule is intended to implement Iowa Code section 368.13.

263—2.10(368) Declaratory rulings. Petitions for declaratory rulings filed pursuant to Iowa Code section 17A.9 shall be in a similar form as petitions for rule change filed pursuant to rule 263—1.2(368) and shall be answered within 60 days after submission of a petition.

This rule is intended to implement Iowa Code section 17A.9.

263—2.11(368) Description of board's operation. The city development board is composed of three members appointed by the governor with the approval of two-thirds vote of the senate to serve six-year terms.

Every two years a different appointment expires and in the case of vacancy the appointments are for the unexpired term. Members are eligible for reappointment, but no member shall serve more than two complete consecutive six-year terms. All actions in the name of the board shall be authorized by not less than two-thirds of the board members eligible to vote.

The board's function is to supervise municipal boundary changes including incorporations, discontinuances, annexations, severances or consolidations for the state of Iowa. Specifically, the board accepts petitions for boundary changes, initiates appropriate proceedings or dismisses the petitions, rules on petitions for rule change and petitions for declaratory rulings, directs the appointment of local representatives to serve with the board members as a committee to consider the petition, arranges for a special election on committee-approved petitions, makes the necessary filings after an election is held or approval of voluntary actions, and supervises the procedures necessary to carry out the voter approved petitions. The board conducts studies of municipal development and based upon the results of its studies may initiate boundary change proceedings.

This rule is intended to implement Iowa Code section 17A.3.

[Filed 8/16/73, amended 9/12/73, 11/13/74]

[Filed 10/29/75, Notice 7/14/75—published 11/17/75, effective 12/22/75]

[Filed 7/5/77, Notice 5/18/77—published 7/27/77, effective 8/31/77]

[Filed 2/16/78, Notice 1/11/78—published 3/8/78, effective 4/12/78]

[Filed emergency 3/2/79—published 3/21/79, effective 3/2/79]

[Filed 12/19/90, Notice 10/17/90—published 1/9/91, effective 2/13/91]